

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Howard E. Leventhal,

Case No. 0:18-cv-320-PAM-KMM

Plaintiff,

v.

ORDER

Travis Tomford et al.;

Defendants.

Howard E. Leventhal, # 46376-424, Federal Prison Camp, P.O. Box 1000, Duluth, MN 55814, pro se.

David W. Fuller, Assistant United States Attorney, United States Attorney's Office, 300 S. 4th St. Ste 600, Minneapolis, MN 55415, attorney for the defendants.

Two motions recently filed by Mr. Leventhal are before the Court. The first is a Motion for Order to Show Cause. (ECF No. 73.) The second is a Motion to Strike the Caption of Doc. 59 and Deem it a Partial Answer to Amended Complaint. (ECF No. 74.) For the following reasons, the both motions are **DENIED**.

Mr. Leventhal's Motion for Order to Show Cause (ECF No. 73.)

Mr. Leventhal has filed a motion asking this Court to issue an order to show cause why the Defendants and their attorneys should not be found in violation of Federal Rule of Civil Procedure 11. (*See* ECF No. 73.) Specifically, Mr. Leventhal argues that the Defendants' request for extension (ECF No. 46) was submitted for the sole purpose of delay. Mr. Leventhal asks for an order to show cause against the Defendants and proposes sanctions in the manner of judgment in his favor. The Court declines to issue any such order at this time.

Rule 11(b) states that by presenting any pleading, motion, and other paper to the court, its proponent certifies that “it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.” Fed. R. Civ. P. 11(b). Here, the Court finds that no order to show cause is necessary. While Mr. Leventhal alleges that the Defendants’ request for an extension of time was submitted for the sole purpose of delay, this Court found good cause to grant the extension. (*See* Order, ECF No. 49 (granted request for extension to respond).) Mr. Leventhal has submitted nothing beyond conclusory allegations to demonstrate that Defendants were somehow dishonest in their request for an extension, or that the request was made for an improper purpose. As such, the Court finds that no order to show cause regarding sanctions is necessary.

Mr. Leventhal’s Motion to Strike Caption of Doc 59 (ECF No. 74.)

Next, Mr. Leventhal, citing Federal Rule of Civil Procedure 12(f)(2), seeks an order from this Court striking the caption of Document 59, the Defendants’ Memorandum in Support of their Motion to Reconsider, and recharacterizing it as a partial answer to Mr. Leventhal’s complaint. First, Rule 12(f)(2) does not apply in this situation. Second, the Defendants’ memorandum is in support of a motion that this Court specifically permitted the Defendants to file. It is not irrelevant or immaterial. Accordingly, the Court will deny Mr. Leventhal’s request.

Based on the foregoing, **IT IS HEREBY ORDERED:**

1. Mr. Leventhal’s Motion for Order to Show Cause (ECF No. 73) is **DENIED**.
2. Mr. Leventhal’s Motion to Strike Caption of Doc. 59 and Deem it to be Partial Answer to Amended Complaint (ECF No. 74) is **DENIED**.

Date: October 10, 2018

s/ Katherine Menendez

Katherine Menendez

United States Magistrate Judge

